

Fisher Broyles

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September 14, 2023

VIA CM/ECF

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The Honorable Maryellen Noreika
J. Caleb Boggs Federal Building
844 N. King Street
Unit 19, Room 4324
Wilmington, DE 19801

**Re: *Ferring Pharmaceuticals Inc., et al. v. Eugia Pharma Specialties Ltd., et al.*
C.A. No. 22-cv-17-MN (D. Del.)
Defendants' Unopposed Request to Adjourn Trial to July 2024**

Dear Judge Noreika:

Defendants Eugia Pharma Specialties Ltd., Aurobindo Pharma Ltd., and AuroMedics Pharma LLC (collectively, "Defendants") hereby submit this unopposed letter request to the Court to postpone the bench trial currently scheduled for October 23, 2023 to July 2024.¹

Counsel for Defendants and Plaintiffs have conferred by phone. Plaintiffs do not oppose an adjournment until July 2024. Plaintiffs' counsel has advised that a related case before Your Honor, *Ferring Pharmaceuticals Inc. et al v. Jiangsu Hansoh Pharmaceutical Group Co., Ltd.*, C.A. No. 22-1474-MN (D. Del.) ("Hansoh Action"), is scheduled for a four (4) day trial commencing on July 15, 2024. Plaintiffs' counsel has advised they do not believe that the full four days will be needed for trial that week, which may free up Court resources in that time period. The parties believe the trial in the current litigation will take less than two days.

The reasons for this request are threefold. *First*, by July 2024, the Federal Circuit will likely have issued its ruling on the pending suit in *Ferring Pharmaceuticals Inc., et al. v. Fresenius Kabi USA, LLC et al.*, C.A. No. 1:20-cv-00431-MN (Court of Appeals Docket # 23-1460), which will be dispositive of various issues presented in this action. *Second*, similar issues will be tried before the Court in the Hansoh Action, and thus judicial resources will be preserved with each related action being tried in close proximity to each other while the arguments are fresh. *Third*, Defendants have recently informed the FDA that they will not be in position to respond to the FDA's Complete Response Letter on Eugia's ANDA until July 2024, and the FDA has indicated that substantial review of any

¹ Defendants likewise agree not to launch their proposed generic product for a length of time following the expiration of the 30-month stay on ANDA approval for a commensurate amount of time as the trial is postponed.

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amendments in response to the Complete Response Letter will be needed. Therefore, a postponement of the trial to July 2024 is unlikely to impact the timeline regarding Defendants' proposed generic product.² As such, good cause exists to accommodate Defendants' unopposed request for adjournment of the trial to July 2024, and intervening deadlines.

In addition, Plaintiffs will not be prejudiced by the request. They have provided their consent to the continuance to July 2024, and Defendants agree not to launch their proposed generic product for a commensurate amount of time as the trial is postponed following the expiration of the 30-month stay on ANDA approval, if needed. This, in conjunction with the regulatory issues addressed above, also should ensure that the Court is not burdened with any preliminary injunction proceedings as a result of this continuance.

Due to the urgency of the impending Pretrial Order exchange schedule, should the Court have any questions, the parties can make themselves available for a teleconference to discuss further with the Court. We appreciate the Court's attention to this matter.

Respectfully submitted,

/s/ Carl D. Neff

Carl D. Neff (No. 4895)

cc: Counsel of Record (via CM/ECF & email)

² It is also worth noting that lead counsel for Defendants, Ray Walia, Esq., has recently become ill and his paralegal has recently contracted COVID-19, which will create an impediment for Defendants to try this action in October 2023. In addition, the other lawyer working on the case, Gary Ji, Esq., is just recovering from a medical illness.